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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,001	02/09/2004	Juergen Schreiner	FA/258A	9086

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EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/776,001	Applicant(s) SCHREINER ET AL.	
	Examiner Aaron M. Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/9/05, 8/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of species, Group 9 in the reply filed on 9/9/2005 is acknowledged. The traversal is on the ground(s) that Figures 12-14, Groups 7-9, depict components of the invention and groups are not distinct species with no generic claim. This is not found persuasive because of the reasons set forth.

At the outset, it appears from applicant's arguments that applicant has not analyzed the examiner's action in the context of the established practice for requiring a provisional election of species as established in Chapter 800 of the MPEP. It is a well-established practice that a requirement to elect a single disclosed species is a holding by the examiner that the plural species, as claimed, are patentably distinct, i.e., capable of supporting separate patents. See MPEP 808.01 (a) and MPEP 809.02(a). If the applicant is of a different view, then applicant need merely clearly state on the record that the species are not patentably distinct. Neither the examiner nor the applicant needs to present any reasoning. Of course, it should be noted that the species that are not patentably distinct for restriction purposes are also not patentably distinct (i.e., obvious in view of one another) for rejection purposes. Applicant's response implies that the various identified species are not considered to be patentably distinct. If such is the case, then applicant must clearly admit this on the record or point to evidence already of record.

With respect to applicant's first argument, it is noted that the examiner fully complied with the required and well-established procedures pertaining to the making of

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a provisional election requirement. The procedures are clearly and explicitly outlined in MPEP 809.02(a). Further, MPEP 817 clearly states that "(t)he statement in MPEP § 809.02- § 809.02(d) is adequate indication of the form of letter when an election of species is required." Further, MPEP 806.04(h) clearly states that the examiner is to group together species that are clearly unpatentable over each other. Thus, it is inherently quite evident that species not grouped together are considered to be patentably distinct from the other separately listed species.

Further, the implication that applicant is otherwise unable to ascertain the basis for the grouping of species, i.e., why they are patentably distinct from each other is not well taken. In particular, applicant's attention is directed to the instant specification wherein numerous "embodiments" are each specifically and individually disclosed and described with respect to the features thereof. For example, page 5 recites, "Figures 12a-12c show top perspective views of one embodiment of the connector housing with alternate valve opening geometries". Then, page 6 recites, Figure 14b is a cross-sectional view of a further embodiment of the pressure relief valve of the present invention". Accordingly, it is quite evident from this disclosure, as well as perusal of the respective figures of each species grouping alone or in combination with the written description, that these embodiments are considered to be patentably distinct.

With respect to the above and applicant's response, it is noted that applicant has failed to point out why each, or any, of these identified species are not patentably distinct.

Finally, applicant should note with respect to species and an election of species requirement in general that there are two and only two alternatives available and each alternative is an absolute and is mutually exclusive of the other. In particular, species can only be either (1) patentably distinct or (2) not patentably distinct. There is no middle ground between these two choices. If the species are patentably distinct, they are restrictable. If the species are not patentably distinct, then they are not restrictable. The examiner, in accordance with well-established practice and procedure, has clearly indicated a position that the various species, as identified in Paper No. 20050527, are patentably distinct. Applicant's response appears to take issue with this position and thus appears to be taking the opposite position that the various species are not patentably distinct. In other words, if applicant objects to the examiner's holding that the species are patentably distinct, then it inherently follows that applicant is asserting that the species are not patentably distinct because that is the only alternative left. If this is correct, then applicant should clearly admit on the record that the various identified species are not patentably distinct. If this is not a correct interpretation of applicant's response, then applicant should clearly explain what the interpretation should be.

The requirement is still deemed proper and is therefore made FINAL.

Priority

It is noted that this application appears to claim subject matter disclosed in prior Application No. 10/742,615, filed 12/18/2003. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the

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prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications, and current status such as abandoned. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that

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the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Information Disclosure Statement

The information disclosure statements (IDS) filed 2/9/2005 and 8/23/2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Connector Assembly with Pressure Relief Valve.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 2180960, Kennedy in view of US patent 5649860, Giuffrida.

In regards to claim 1, Kennedy discloses a connector assembly for connecting an, the assembly comprising:

a semi-rigid, hollow connector housing (10) having a first, generally tubular, insertable section, insertable through an opening in a flexible wall of the inflatable article, and a second external section extending oppositely from the insertable section and outwardly from the flexible wall upon insertion, the external section and the insertable section being connected, the two sections providing a continuous air passageway therethrough into the inflatable article upon insertion therein, the passageway extending from an external opening in the external section and being removably connectable thereat to the source of inflation fluid, through the connector assembly, and into the inflatable article, wherein the insertable section has an external circumferential groove therearound which, upon insertion into and through the wall opening, is secured thereat by an elastic washer positioned immediately adjacent to and concentric with the wall opening, the washer being press-fit into the groove, the washer

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providing a seal at the wall opening, thereby sealing off leakage of fluid to or from the inflatable article and confining fluid passage to and through the passageway, thereby providing, when assembled, a low-profile pathway for fluid communication from the external source into the inflatable article through a wall opening thereof.

Kennedy does not disclose a pressure relief valve.

Giuggrida teaches a pressure relief valve (40) to vary the passage section of the fluid through the connector assembly as the difference in pressure between the inside of the hollow body and the outside varies (col.2, lines 12-15). As Giuggrida relates to a duct with outlets for delivering a conveyed fluid, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the connector assembly with a pressure relief valve to vary the passage section of the fluid through the connector assembly as the difference in pressure between the inside of the hollow body and the outside varies, as taught by Giuggrida.

Note, the inflatable article and inflation source are not part of the claimed invention.

In regards to claim 2, Kennedy discloses a seal effective to a pressure gradient of at least 70 mbar.

In regards to claim 3, Kennedy discloses a seal effective to a pressure gradient of at least 200 mbar.

In regards to claim 4, Kennedy discloses the housing and insertable section being integrally formed into a unitary construction.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Aaron M Dunwoody
Primary Examiner
Art Unit 3679

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